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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,191	12/15/2003	Robert A. Rowland III	17090.002001	4366
7590 08/03/2005			EXAMINER	
Jonathan P. Osha ROSENTHAL & OSHA L.L.P. Suite 2800 1221 McKinney Houston, TX 77010			GIBSON, ROY DEAN	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 08/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/736,191

Applicant(s)

ROWLAND, ROBERT A.

Examiner

Roy D. Gibson

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by McCoy (5,167,655). McCoy discloses a method for inhibiting infection (prevent or reduce swelling and edema and inherently infection after an operation) by applying cold therapy essentially as claimed wherein the cold therapy panty is designed to be reusable, and contains an absorbent pad and a cold pack inserted into a pouch. The cold therapy panty is applied to cause a rapid temperature change to a predetermined temperature wherein it is sustained for a predetermined period of time, followed by assessing the discomfort of the patient and then removing the cold therapy panty to assess the treated tissue area for occurrence of infection. If the infection may still occur, then the method of treatment is repeated as required (col. 1, lines 5-32, col. 2, line 20-col. 3, line 66).

Claims 8-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Macher et al. (6,066,164).

As to claims 8-9, Macher disclose a heating device comprising:

a heat transfer element (Figure 1, # 2) which can be positioned on the skin of a patient; and

a thermal energy source (heater #3) for altering a temperature of the surface of the heat transfer element until a predetermined temperature is reached and wherein the source forms an integral unit with the heat transfer element (col. 4, line 4-col. 7, line 31).

As to claims 10-12, Macher et al. further disclose the surface of the heat transfer element is configured to a shape of a target area; further comprising a temperature detector (sensor #36) which regulates activation of the thermal energy source.

As to claims 13, Macher et al. further disclose at least one input from the external power supply.

As to claims 14-17, Macher et al. further disclose and insulating element (21) , a positioning element (Figure 3, # 4) for gripping the device ,and wherein the thermal energy source is separately replaceable, and wherein the thermal energy source includes an input for renewal of at least one component of the thermal

energy source (a means to replace the heater #3 and col. 4, line 4-col. 7, line 31).

Conclusion

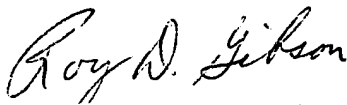
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wierson (5,707,645) discloses a hemorrhoidal ice-treatment device; and Tuffel (4,938,221) disclose a hemorrhoid inflammation reducing device).

Art Unit: 3739

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roy D. Gibson
Primary Examiner
Art Unit 3739

August 1, 2005